

Defendant THE CITY OF NEW YORK acted through its employees, agents and/or servants, including the individually named Defendants herein, who at all relevant times acted within the course and scope of their employment.

18. Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS are employees acting within the scope of their employment as officers of the New York City Police Department.

19. Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS are employees acting within the scope of their employment as officers of the New York City Police Department.

**AS AND FOR A FIRST CLAIM OF FALSE ARREST PURUSANT TO 42 U.S.C. § 1983
AGAINST DEFENDANTS SGT. KING, SGT. VIVAR DIEGO, PO HARRIS
HASKOVIC, JOHN & JANE DOE POLICE OFFICERS**

20. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

21. On or about August 28, 2013, Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS, acting without probable cause, intentionally, without justification and with deliberate indifference to the rights, life and liberty of Plaintiff, falsely arrested Plaintiff.

22. Plaintiff engaged in no wrong doing or illegal conduct at that time and place and was simply trying to avoid getting shot by an unknown assailant.

23. Without probable cause or justification, Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS physically and forcibly handcuffed Plaintiff and arrested him.

24. As a result of the foregoing, Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS, acting under color of state law, violated 42 U.S.C. § 1983 *et. seq.*, deprived Plaintiff of rights secured by the Constitution and laws of the United States, including those rights protected by the Fourth and Fourteenth Amendments, their right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitutions of the United States and the State of New York.

25. As a result of the foregoing, Plaintiff suffered loss of liberty and life, substantial emotional and psychological pain and was otherwise injured.

26. As a result of the foregoing, Plaintiff demands monetary damages against Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS and further seeks punitive damages against Defendants in an amount to be determined by a jury.

**AS AND FOR A SECOND CLAIM OF MALICIOUS PROSECUTION
PURSUANT TO 42 U.S.C. § 1983 AGAINST DEFENDANTS SGT. KING, SGT. VIVAR
DIEGO, PO HARRIS HASKOVIC, JOHN & JANE DOE POLICE OFFICERS**

27. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if more fully set forth herein.

28. On or about August 28, 2013, Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, and JOHN & JANE DOE POLICE OFFICERS, acting intentionally, maliciously and without justification or probable cause, caused a criminal charge to be filed against Plaintiff.

29. Such charge was ultimately dismissed by the Bronx County Criminal Court after it was filed by Defendants.

30. Defendants were aware that such criminal charges were a false charge, that Plaintiff had not committed any crime, and nonetheless decided to and did file such criminal charge against Plaintiff with malice and with a deliberate and reckless disregard to Plaintiff's rights.

31. Defendants had no reason to arrest Plaintiff as it was evident that Plaintiff was not engaged in any criminal activity. Defendants assumed that by arresting Plaintiff, they would be able to coerce information from Plaintiff as to who was firing a gun on a public street at the Plaintiff and his friends. Such efforts are not a legitimate or legal basis for arrest and were effectuated with a deliberate disregard for Plaintiff's constitutional rights.

32. As a result of the foregoing, Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, and JOHN & JANE DOE POLICE OFFICERS, acting under color of state law, violated 42 U.S.C. § 1983 *et. seq.*, and deprived Plaintiff of rights secured by the Constitutions and laws of the United States and the State of New York, including those rights protected by the Fourth and Fourteenth Amendments, her right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitution of the United States and the State of New York.

33. As a result of the foregoing, Plaintiff suffered loss of liberty and life, substantial emotional, mental and psychological pain, and was otherwise injured.

34. As a result of the foregoing, Plaintiff demands monetary damages against Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, and JOHN & JANE DOE POLICE OFFICERS and further seeks punitive damages against Defendants SGT. KING, SGT. VIVAR DIEGO, PO HARRIS HASKOVIC, and JOHN & JANE DOE POLICE OFFICERS in an amount to be determined by jury.